



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**WPA Form 9A – Enforcement Order**  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

UAO-SE-15-6W005

Provided by DEP

**A. Violation Information**

This Enforcement Order is issued by:

Massachusetts Department of Environmental Protection July 24, 2015  
(Issuing Authority) Date

To:

Tucker-Roy Marine Towing and Salvage, Inc., Attn: Conrad H. Roy

Name of Violator

56 Ocean Drive, Mattapoisett, MA 02739

Address

1. Location of Violation:

City of New Bedford

Property Owner (if different)

302 Herman Melville Boulevard

Street Address

New Bedford

02740

City/Town

Zip Code

72

299

Assessors Map/Plat Number

Parcel/Lot Number

2. Extent and Type of Activity:

Pumping water from a sunken barge and discharge of sediment laden water into New Bedford

Harbor, causing an alteration of Land Under Ocean in a Designated Port Area (310 CMR 10.26).

**B. Findings**

The Issuing Authority has determined that the activity described above is in violation of the Wetlands Protection Act (M.G.L. c. 131, § 40) and its Regulations (310 CMR 10.00), because:

☒ the activity has been/is being conducted without a valid Order of Conditions.

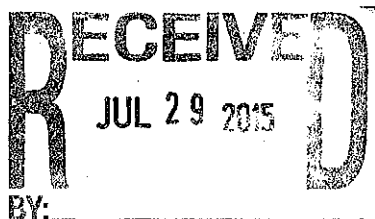
☐ the activity has been/is being conducted in violation of the Order of Conditions issued to:

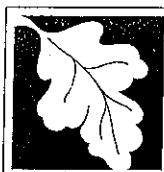
Name

Dated

File Number

Condition number(s)





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**B. Findings (cont.)**

☐ Other (specify):

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**C. Order**

The issuing authority hereby orders the following (check all that apply):

- ☒ The property owner, his agents, permittees, and all others shall immediately cease and desist from any activity affecting the Buffer Zone and/or wetland resource areas on this property.
- ☐ Wetland alterations resulting from said activity should be corrected and the site returned to its original condition.
- ☐ Complete the attached Notice of Intent. The completed application and plans for all proposed work as required by the Act and Regulations shall be filed with the Issuing Authority on or before

Date

No further work shall be performed until a public hearing has been held and an Order of Conditions has been issued to regulate said work.

☐ The property owner shall take the following action to prevent further violations of the Act:

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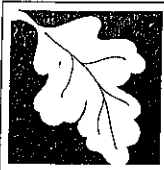
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Notwithstanding the issuance of this Order, the Department explicitly reserves all rights to proceed against violations at the site including but not limited to, the imposition of administrative, civil or criminal penalties or injunctions.

Failure to comply with this Order may constitute grounds for additional legal action. Massachusetts General Laws Chapter 131, Section 40 provides: "Whoever violates any provision of this section (a) shall be punished by a fine of not more than twenty-five thousand dollars or by imprisonment for not more than two years, or both, such fine and imprisonment; or (b) shall be subject to a civil penalty not to exceed twenty-five thousand dollars for each violation". Each day or portion thereof of continuing violation shall constitute a separate offense.



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**D. Appeals/Signatures**

Questions regarding this Enforcement Order should be directed to:

David Hill

Name

508-946-2730

Phone Number

M-F 8:45 – 5:00

Hours/Days Available

Issued by:

**Massachusetts Department of Environmental Protection**

(Issuing Authority)

Signature:

*James Mahala*

James Mahala, Acting Chief, Wetlands & Waterways, Bureau of Resource Protection

7/24/15

Date Certified Mail #7014 2120 0002 1170 5915  
Return Receipt Requested



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## Notice of Appeal Rights:

### A) Appeal Rights and Time Limits:

You are hereby notified of your right to request an adjudicatory hearing under the Massachusetts Administrative Procedure Act, G.L. Chapter 30A, Section 10, providing the request is made in writing by certified mail or hand delivery, to the Department, with the appropriate filing fee and a DEP Fee Transmittal Form within twenty-one (21) days of the date of issuance of this Enforcement Order, and addressed to:

Case Administrator  
Office of Appeals & Dispute Resolution  
Department of Environmental Protection  
One Winter Street, 2nd Floor  
Boston, Massachusetts 02108

A copy of the request shall at the same time be sent by certified mail or hand delivery to this issuing office of the DEP at:

Attn: Wetlands and Waterways Program, Bureau of Resource Protection  
Department of Environmental Protection – Southeast Regional Office  
20 Riverside Drive  
Lakeville, Massachusetts 02347.

### B) Contents of Hearing Request:

A Notice of Claim for Adjudicatory Hearing shall comply with the Department's Rules for the Conduct of Adjudicatory Proceedings, 310 CMR 1.01(6), and shall contain the following information:

- (a) the DEP Wetlands or Waterways File Number (if applicable), name of the applicant and address of the project;
- (b) the complete name, address, fax and telephone numbers of the party filing the request, and, if represented by consultant or counsel, the name, fax and telephone numbers, and address of the representative;
- (c) the names, telephone and fax number, and addresses of all other parties, if known;
- (d) a clear and concise statement of (1) the facts which are grounds for the proceedings; (2) the objections to this Enforcement Order, including specifically the manner in which it is alleged to be inconsistent with the Department's Wetlands and Waterways Regulations, 310 CMR 10.00 and 9.00, and does not contribute to the protection of the interests identified in the Act; and (3) the relief sought through the adjudicatory hearing, including specifically the changes desired in the Enforcement Order.

### C) Filing Fee and Address:

A copy of the Notice of Claim along with the DEP Fee Transmittal Form and a valid check or money order payable to the Commonwealth of Massachusetts in the amount of one hundred dollars (\$100) must be mailed to:

Commonwealth of Massachusetts  
Department of Environmental Protection  
Commonwealth Master Lockbox  
P.O. Box 4062  
Boston, Massachusetts 02211

The request will be dismissed if the filing fee is not paid, unless the appellant is exempt or granted a waiver. The filing fee is not required if the appellant is a city or town (or municipal agency), county, or district of the Commonwealth of Massachusetts, or a municipal housing authority. The Department may waive the adjudicatory hearing filing fee pursuant to 310 CMR 4.06(2) for a person who shows that paying the fee will create an undue financial hardship. A person seeking a waiver must file an affidavit setting forth the facts believed to support the claim of undue financial hardship together with the hearing request as provided above.